

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN

RICHARD ANTHONY FRANKS,  
Petitioner,

Judge: Laurie J. Michelson

v.

Case No.: 2:22-CR-20289

UNITED STATES OF AMERICA,  
Respondent.

FILED  
JAN 04 2024  
CLERK'S OFFICE  
DETROIT

MOTION TO COMPEL DISCOVERY

PURSUANT TO FED. R. 6(A)

COMES NOW, Richard Anthony Franks, pro se, presenting this Motion to Compel Discovery. In support of this motion, Petitioner states the following:

Facts of the Motion

Petitioner asserts that he presents a meritorious Fourth Amendment claim in the present 28 U.S.C. §.2255 and that there is a particularized need to compel the production of the sentencing memorandum to help Petitioner construct a clearer ineffective assistance of counsel issue on his Fourth Amendment violation issue in his 28 U.S.C. § 2255 motion.

Legal Authority to Grant Discovery

A judge may, for good cause, authorize a party to conduct discovery under Federal Rule 6(a), when a request by a petitioner has established that the material documents would help him. See, Pizzuti v. United States, 809 F. Supp. 2d 164 (2nd Cir. 2011)("A court may provide discovery, when a petitioner shows discovery demonstrates that he's entitled to relief").

Petitioner contends that the sentencing memorandum will show a meritorious ineffective assistance of counsel issue, as attorney Frederick N. Blanchard's own omission concerning the search warrant will support Petitioner's ineffective

assistance of counsel issue.

RELIEF REQUESTED

Petitioner requests that this Honorable Court issue an order, requiring that the government or attorney Frederick N. Blanchard provide Petitioner with a copy of the sentencing memorandum.

Date: 12-16-23

Respectfully Submitted,

Richard Anthony Franks  
Richard Anthony Franks  
#97824-509  
FCI Milan  
P.O. Box 1000  
Milan, MI 48160

VERIFICATION

I, Richard Anthony Franks, verify that the foregoing statements made within this document are true, correct and complete to the best of my knowledge and belief pursuant to the penalty of perjury.

Date: 12-16-23

Richard Anthony Franks  
Richard Anthony Franks

CERTIFICATE OF SERVICE

I, Richard Anthony Franks, certify that the 16 day of December, 2023 that I mailed a true and correct copy of the foregoing document through the Milan Prison Mail System postage pre-paid to the opposing party herein:

Myra F. Din (USAO)  
211 West Fort Street  
#2001  
Detroit, MI 48226

Richard Anthony Franks  
Richard Anthony Franks

Date:

Dear Clerk,

Please find enclosed for filing a Petition for 28 U.S.C. 2255, memorandum brief in support of 28 U.S.C. 2255, Affidavit, and motion requesting discovery.

Sincerely yours

Richard E. [Signature]

AFFIDAVIT OF: RICHARD ANTHONY FRANKS

STATE OF: MICHIGAN

COUNTY OF: WASHTENAW

CITY OF: MILAN

Petitioner asserts that he initially hired attorney Randall Upshaw to represent him in this initial proceeding, but discontinued his representation due to attorney Randall Upshaw failure to file a motion to suppress evidence due to the affidavit not supporting probable cause to issue a search warrant.

Petitioner then retained attorney Frederick N. Blanchard to represent him on the matter, and discussed advancing a motion to suppress on the basis that the affidavit lacked probable cause to issue the warrant, which in turn attorney Frederick N. Blanchard assured Petitioner he would include the issue in his sentencing memorandum to get some clarification on the issue.

Petitioner contends after doing some research on the matter that he learned attorney Frederick N. Blanchard was required to file a motion to suppress evidence before entering a plea. Petitioner asserts that if he had known the motion to suppress was required to be filed before a plea, he would have chosen to go to trial, as he had a meritorious Fourth Amendment violation issue.

VERIFICATION

I, Richard Anthony Franks, verify that the foregoing statements made within this affidavit are true, correct, and complete to the best of my knowledge and belief pursuant to the penalty of perjury (28 U.S.C. § 1746).

Date: 12-16-23

Respectfully Submitted,

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